IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

MISC. PETITION NO.50 OF 1998

Industrial Investment Bank
of India Ltd and Anr. ....Petitioner

versus

Vidiani Agro Tech Industries
Ltd and Anr. ....Respondents

S.N. Shah i/b. Purnanand and Co. for the petitioner.
D.J. Mahimtura and Co. for respondent no.2.

CORAM : S.U. KAMDAR, J.

DATE : 21ST MARCH, 2005.

P.C. :

1. The present petition is filed under the Industrial Reconstruction Bank of India Act, 1997

for the recovery of the diversed amount lent and advanced by the petitioner to the respondent no.1. Pursuant to the application of the respondent no.1 the petitioner has advanced to the respondent a term loan of Rs.300 lacs on the terms and conditions set out especially in the letter dated 10.1.1994. A loan agreement was executed on 7.9.1994 between the the respondent no.1 as a borrower and the second respondent who is the petitioner herein,. The respondent no.1 has executed a deed of hypothecation dated 7.9.1994 hypothecating all moveable assets, plant and Machinery, stocks, accessories in favour of the petitioner herein. In respect of the said amount lent and advanced a charge has been created by the first respondent company in respect of the movable properties in favour of the respondent no.2 and the petitioner jointly. There were defaults in respect of the payment of amount by the respondent no.1. and therefore the present petition is filed. The petitioner has filed up to date particulars of claim claiming a sum of Rs.5,01,19,282 as a net amount due and payable by the respondent no.1 to the petitioner herein.

2. The respondents are served by substituted service. An affidavit of service dated 19.1.2001 is filed and the same is taken on record. In the circumstances, the petition is made absolute in terms of prayer clause (a) and (b). The court receiver to sell the properties and distribute the sale proceeds beetweenn the petitioner and the respondent no.2 in proportion to the amount lent and advanced by them in respect of the said properties because both of have got pari passu charge in respect of the said securities. The petition is disposed off accordingly with no order as to costs.

SD/-

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